

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA**

<b>NATHANIEL SHAW</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CASE NO.-2:07-CV-606-ID</b>
<b>v.</b>	)	
	)	
<b>D.T. MARSHALL, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANT BATES' ANSWER TO PLAINTIFF'S  
COMPLAINT AND AMENDED COMPLAINT**

Comes now the Defendant, Johnny E. Bates, by and through his attorney of record, and for answer to The Complaint and Amended Complaint states as follows:

1. The Complaint and Amended Complaint fail to state a claim against this Defendant upon which relief can be granted.
2. This Defendant denies that he has violated any of the Plaintiff's constitutional rights afforded him under the law.
3. This Defendant is due qualified immunity with respect to Plaintiff's claims against him in his individual capacity.
4. This Defendant denies that he was negligent in his treatment of the Plaintiff and avers that his treatment met and exceeded the standard of care required of physicians in Alabama.
5. This Defendant denies that he is guilty of deliberate indifference to serious medical need, as the Plaintiff was afforded more than adequate care.
6. This Defendant denies that the Plaintiff is entitled to damages for emotional distress because he has not suffered any physical injury.

7. This Defendant denies that the Plaintiff is entitled to any relief based on the facts alleged in the Complaint and the Amended Complaint.

8. This Defendant denies that he has damaged the Plaintiff in any way.

9. This Defendant denies any act or omission on his part was the proximate cause of the Plaintiff's alleged damages.

Respectfully submitted this the 4<sup>th</sup> day of October, 2007.

/s/ Wayne P. Turner

(TUR009)

Bar Number: ASB7227T80W

Attorney for Defendant Bates

**OF COUNSEL:**

Wayne P. Turner, Esq.

Attorney At Law

1505 Madison Avenue

Montgomery, AL 36107

(334) 420-6560 Telephone

(334) 265-9299 Facsimile

[waynetlaw@aol.com](mailto:waynetlaw@aol.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 4<sup>th</sup> day of October, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following counsel:

Constance C. Walker, Esq.  
Thomas T. Gallion, III  
Haskell, Slaughter, Young & Gallion, P.C.  
Post Office Box 4660  
Montgomery, Alabama 36103-4660

Allison Hale Highley, Esq.  
City of Montgomery Legal Department  
P.O. Box 1111  
Montgomery, Alabama 36101-1111

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 4<sup>th</sup> day of October, 2007, sent an exact copy of the foregoing document by U.S. Mail, postage prepaid and properly addressed to the following:

Nathaniel Shaw c/o  
Montgomery County Detention Facility  
P.O. Box 4599  
Montgomery, Alabama 36103

/s/Wayne P. Turner  
Of Counsel

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA**

**NATHANIEL SHAW**

**Plaintiff,**

**v.**

**D.T. MARSHALL, et al.,**

**Defendants.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CASE NO.-2:07-CV-606-ID**

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Johnny E. Bates, M.D., who, after first being duly sworn, says as follows:

“1. Plaintiff’s allegation that “Dr. Bates did not trust in his own judgment” is inaccurate. The Plaintiff unfortunately interprets my statement that my first exam was not adequate to mean that I did not trust my judgment. The fact is that I did not feel that without dilating his pupil I could make a reasonable judgment as to his claims. Having accomplished that, however, I found nothing that was in need of immediate treatment or referral. I feel very confident in those findings.

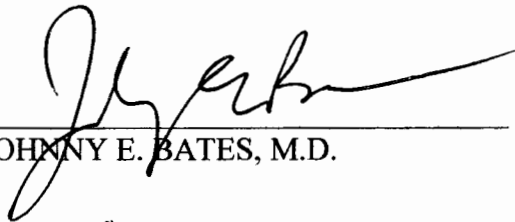
2. Quality Correctional Health Care receives all medication from a licensed pharmaceutical firm and the medication is prepared in punch cards by a licensed pharmacist. Generic substitution is allowed and Glucophage or Metformin is indeed a generic medication. It may therefore appear as different tablets but the medication is therapeutically equivalent.

3. To the Plaintiff’s claim of perjury, I am not sure what his claim is based upon. I have not changed my testimony and my previous statements in my first affidavit are true and correct to the best of my knowledge.


4. I have not seen the Plaintiff since my affidavit was filed and therefore have no new



information regarding Mr. Shaw.”

  
\_\_\_\_\_  
JOHNNY E. BATES, M.D.

SWORN TO and SUBSCRIBED before me this 3<sup>rd</sup> day of October, 2007.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: 06-01-08

**IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA**

<b>NATHANIEL SHAW</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CASE NO.-2:07-CV-606-ID</b>
<b>v.</b>	)	
	)	
<b>D.T. MARSHALL, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**SUPPLEMENTAL RESPONSE OF DEFENDANT JOHNNY E. BATES, M.D.**

In accordance with the Court's Order of September 6, 2007, the Defendant Johnny E. Bates, files his supplemental response to the Complaint as amended. The Defendant shows unto the Court the following:

1. Defendant Bates reaffirms the facts set forth in his affidavit dated August 6, 2007 which was filed with response to Plaintiff's Motion for Preliminary Injunction.
2. Defendant Bates denies the allegations that he committed perjury and that he is guilty of medical negligence. The Plaintiff's specific claims, which are set forth in his "Ground Two: Medical Negligence" on page 9-11 of his Amended Complaint are specifically addressed in the affidavit attached hereto as Exhibit A.

/s/ Wayne P. Turner  
(TUR009)  
Bar Number: ASB7227T80W  
Attorney for Defendant Bates

**OF COUNSEL:**

Wayne P. Turner, Esq.  
Attorney At Law  
1505 Madison Avenue  
Montgomery, AL 36107  
(334) 420-6560 Telephone  
(334) 265-9299 Facsimile  
waynetlaw@aol.com

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 4<sup>th</sup> day of October, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following counsel:

Constance C. Walker, Esq.  
Thomas T. Gallion, III  
Haskell, Slaughter, Young & Gallion, P.C.  
Post Office Box 4660  
Montgomery, Alabama 36103-4660

Allison Hale Highley, Esq.  
City of Montgomery Legal Department  
P.O. Box 1111  
Montgomery, Alabama 36101-1111

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 4<sup>th</sup> day of October, 2007, sent an exact copy of the foregoing document by U.S. Mail, postage prepaid and properly addressed to the following:

Nathaniel Shaw c/o  
Montgomery County Detention Facility  
P.O. Box 4599  
Montgomery, Alabama 36103

/s/Wayne P. Turner  
Of Counsel

